

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
YOUNGSTOWN DIVISION

FILED
OCT 09 2019
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
YOUNGSTOWN

Tony Potter,

Plaintiff,

v.

Andrew Schumacher, Physicians
Assistant; Doctor J. Dunlop,
Medical Doctor,

Defendant(s).

CIVIL ACTION NUMBER

4:19CV 2358

COMPLAINT FOR VIOLATIONS
OF THE EIGHTH AMENDMENT
TO THE U.S. CONSTITUTION
FOR: DELIBERATE INDIFFERENCE
TO A SERIOUS MEDICAL NEED;
DELAY IN MEDICAL TREATMENT;
DENIAL OF MEDICAL TREATMENT;
DELIBERATE INDIFFERENCE TO
A SUBSTANTIAL RISK OF HARM

JUDGE PEARSON

MAG. JUDGE BURKE

"BIVENS ACTION"

AGAINST FEDERAL EMPLOYEES IN THEIR INDIVIDUAL CAPACITIES
FOR VIOLATIONS OF THE PLAINTIFF'S EIGHTH AMENDMENT RIGHTS

Tony Potter
FCI Elkton-Low
P.O. BOX 10
Lisbon, Ohio 44432

JURISDICTIONAL STATEMENT

¶1. This Court has Jurisdiction over this matter pursuant to Title 28 U.S.C. §1331, and all the Statutes and Constitutional Amendments applicable in this matter. Also, because all acts, committed and omitted by the defendant(s), complained of herein were committed or omitted within this Court's Jurisdiction. Finally, the defendant(s) and the Plaintiff were all either residing or working within this Court's Jurisdiction at the time all acts were committed or omitted.

PARTIES

PLAINTIFF

¶2. The Plaintiff is a prisoner in the custody of the Bureau of Prisons, and has been for the past several years. Plaintiff is currently located a Federal Correctional Institution Elkton-Low, P.O. BOX 10, Lisbon, Ohio 44432.

DEFENDANT(S)

¶3. The Defendant(s), Andrew Schumacher and Dr. J. Dunlop, are, and were at the times complained of herein, both Employees of the Federal Bureau of Prisons, and work as Medical Staff Memembers at FCI Elkton-Low.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

¶4. The Plaintiff has Exhausted his Administrative Remedies by filing a BP-8, BP-9, BP-10, and BP-11, with the appropriate Bureau of Prisons (B.O.P.) agency authorities, per the Administrative Remedy Procedures for Exhaustion.

CLAIM

¶15. The Plaintiff, on or about June 4, 2018, was play cards on the Recreation Yard at FCI Elkton-Low when his Abdominal Area (Stomach Area), near the Umbilicus, burst open. Of course, the Plaintiff had been complaining about this Area for months, but received no Medical Assistance, and received nothing for severe pain.

¶16. The Plaintiff was rushed to the Hospital, where he remained for four (4) days. During that four (4) days, the Plaintiff spent two (2) days connected to an IV Drip, and two (2) days being Examined and Counseled by Medical Staff. The Plaintiff, while at the Hospital, received an X-Ray; Cat-Scan; and Ultrasound of his Abdominal Area (And Other Surrounding Areas), and these Procedures revealed that the Mesh from Plaintiff's previous Hernia Surgery had Broken Into Pieces and was disbursed throughout the Plaintiff's Bowels and Intestines. The Procedures also revealed Pockets and Abscesses within the Plaintiff's Abdominal Area.

¶17. One of the Doctors, at the Hospital, dug a Wooden Handled Q-Tip (Using The Wooden End of Q-Tip) into the Plaintiff Abdominal Area, and Yellow Puss and Black Liquid began to ooze out of the Plaintiff Abdominal Area. The Plaintiff was then, after further testing of his Abdominal Area, diagnosed with having a Ruptured Incarcerated Umbilical Hernia; and Methicillin-Resistant Staphylococcus Aureus or MRSA. The Plaintiff was sent back to FCI Elkton-Low and only received 'Wound Care' and a few days of Medication.

¶18. The Plaintiff continued to complain to the FCI Elkton Medical Staff, specifically the defendants (Andrew Schumacher, PA; and Dr. J. Dulop, Medical Doctor) who were Plaintiff's Primary Care Givers, about the Severe Abdominal Pain, and the fact that Plaintiff's Abdominal Area Skin would appear to be healing, although continuously draining, but, would then Rupture or Burst back open with the same Yellow Puss and Black Liquid oozing out, for the next five (5) months.

¶19. Until October 8, 2018, when the Plaintiff had to once again be rushed out to

the outside Hospital because his Abdominal Area had another severe Rupture. The Plaintiff was bandaged up and sent back to FCI Elkton-Low, where he received only 'Wound Care' and a few days Medication.

¶10. Also, in October of 2018, the Plaintiff was scheduled for a Hernia Surgery, on his Incarcerated Umbilicus Hernia, and a fourteen (14) day stay in the Hospital. However, instead of doing the Hernia Surgery on the Left-Side of his Abdominal Area the Pre-Surgical Examination revealed a Pocket of Broken Mesh, surrounded by MRSA, on the Right-Side of his Abdominal Area, a 4 X 4 Inch Hole/Incision was made for removal of the Mesh. The Plaintiff was returned to FCI Elkton-Low for 'Wound Care' only, and given a few days of Medication.

¶11. The Plaintiff, after the above stated Surgical Procedure, had to continuously complain, and write Administrative Remedy Request (Complaints), concerning his Severe Abdominal Pain; The Continuous Leaking of Yellow Puss and Black Liquid from his Abdominal Area; The MRSA Intestinal Infection for which Plaintiff received no Medical Treatment, before the defendant(s) would prescribe Plaintiff any Antibiotics, and even then the Plaintiff only received Antibiotics for a few weeks.

¶12. The Plaintiff, since his several months of complaining of Abdominal Pain and Discomfort and then his Abdominal Rupture on June 4, 2018, has spent over one (1) year in Severe Pain, constantly complaining about his Abdomen Continuously Bursting or Rupturing and Continuously Leaking Yellow Puss and Black Liquid, and his Extremely Painful Incarcerated Umbilicus Hernia, which was never Operated on or Repaired, but, receiving no proper Medical Treatment from the defendant(s). Even though the Plaintiff was seen several times by the defendant(s), and other Medical Staff, the Plaintiff did not receive any proper Medical Treatment, and the Plaintiff has been suffering, for over (1) year, with a Severely Painful MRSA Abdominal Infection, an Extremely Painful Incarcerated Umbilicus Hernia, and Continuous Leaking and Rupturing of Yellow Puss and Black Liquid from his Abdominal Area.

¶13. The Plaintiff has submitted, along with this Complaint, a Motion To Hold this Civil Action In Abeyance Until His Release And Counsel Enters An Appearance And Amends Plaintiff's Complaint. The Plaintiff's Amended Complaint will contain more 'Specific Details' of the Defendants' Involvement and Interaction with the Plaintiff, and how the Defendants were Deliberately Indifferent to Plaintiff, and all Details concerning Defendants' Liability in this matter.

REQUESTED RELIEF

¶14. The Plaintiff, in the form of Requested Relief for this "Preliminary Complaint," requests that this Court enter a Judgment in favor of the Plaintiff for the Sum Certain Amount of \$10,000,000.00 (Ten-Million-Dollars). This Requested Relief is subject to change with Amendment of Complaint.

Respectfully submitted,

Tony Potter, Plaintiff
FCI Elkton-Low
P.O. Box 10
Lisbon, Ohio 44432